

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROGELIO MAY RUIZ,

Plaintiff,

v.

A. SHEARER, et al.,

Defendants.

No. 2:20-cv-2078 TLN DB P

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se with a civil rights action. Plaintiff claims officers used excessive force in violation of his Eighth Amendment rights. On December 2, 2020, the undersigned recommended that plaintiff's motion to proceed in forma pauperis be denied because plaintiff accrued three strikes under 28 U.S.C. § 1915(g) prior to filing the instant action. (ECF No. 10.) By order dated January 15, 2021, the district judge assigned to this action adopted the findings and recommendations and directed plaintiff to pay the filing fee within fourteen days of the date of this order or face dismissal of this action. (ECF No. 13.) Those fourteen days have passed, and plaintiff has not paid the filing fee.

Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice.

These findings and recommendations will be submitted to the United States District Judge Assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within thirty days after being served with these findings and recommendations, plaintiff may file written objections with

1 the court. The document should be captioned “Objections to Magistrate Judge’s Findings and  
2 Recommendations.” Plaintiff is advised that failure to file objections within the specified time  
3 may result in a waiver of the right to appeal the district court’s order. Martinez v. Ylst, 951 F.2d  
4 1153 (9th Cir. 1991).

5 Dated: April 26, 2021

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9 DEBORAH BARNES  
10 UNITED STATES MAGISTRATE JUDGE  
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15 DB:1/Orders/Prisoner/Civil.Rights/ruiz2078.f&r.fee  
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